

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION

BARBARA HUSS and
RODNEY HUSS

PLAINTIFF

V.

CIVIL ACTION NO. 2:99CV130

ANDREA GIDDENS, M.D.

DEFENDANT

ORDER

This cause comes before the court on the plaintiffs' motion, pursuant to Rule 60 of the Federal Rules of Civil Procedure, for relief from the order issued by this court on November 26, 2000 granting the defendant's motion to dismiss for lack of personal jurisdiction. Upon due consideration of the parties' pleadings and memoranda, the court finds that the motion is not well-taken.

The order at issue dismissed this case on the ground that the defendant's contacts with the forum state did not comport with the dictates of the due process clause of the Fourteenth Amendment. The instant motion arises from the plaintiff's discovery that Memphis Obstetrics and Gynecological Association, P.C. [Memphis Gynecological] operates an office in Southaven, Mississippi. It is undisputed that the defendant is a "partner" of Memphis Gynecological. The plaintiffs allege *general* jurisdiction over the defendant based on the evidence of Memphis Gynecological's operations in Mississippi. The plaintiffs observe that the details of the Mississippi office are presently unknown and requests, in the alternative, additional discovery to develop the "myriad of possibilities" relevant to the defendant's status as a "partner" of Memphis Gynecological in order to establish the court's jurisdiction over the defendant.

The court has doubts as to whether Mississippi's long-arm statute applies to the factual

¹ The defendant's motion to dismiss for lack of personal jurisdiction had conceded the statutory requirements of personal jurisdiction under the tort prong of Mississippi's long-arm statute. Accordingly, the court focused exclusively on the constitutional requirements of personal jurisdiction,

circumstances of this cause.¹ In any event, the so-called "fiduciary-shield" doctrine prohibits the plaintiffs' attempt to establish jurisdiction over the defendant based on Memphis Gynecological's operations in Mississippi or the defendant's possible in-state activities in a corporate capacity.² The doctrine provides, in general, that jurisdiction over individual officers, shareholders or employees of a corporation may not be predicated on the court's jurisdiction over the corporation itself. Donovan v. Grim Hotel Co., 747 F.2d 966, 973 n.4 (5th Cir. 1984); see 4A Wright & Miller, Federal Practice and Procedure, Civil 186-191 (3d. 1998). It is not an absolute shield from jurisdiction; each defendant's contacts with the forum state must be assessed individually. Bumgarner v. Carlisle Medical Inc., 809 F.Supp. 461, 464 (S.D.Miss. 1993)(citing Calder v. Jones, 465 U.S. 783, 790, 79 L.Ed.2d 804, 813 (1984)). There are recognized exceptions to the doctrine, such as when the defendant's personal interests motivate his or her in-state activities³ or when the corporation is the alter ego of the agent.⁴

Based on the court's review of the relevant cases, the court finds that none of the recognized exceptions to the doctrine applies to the factual circumstances of this cause. It is undisputed that the defendant has no direct contact with the State of Mississippi other than the possible activities in a corporate capacity alleged by the plaintiff in the instant motion. In such a situation, to establish jurisdiction over the defendant would constitute a direct violation of the "fiduciary-shield" doctrine.⁵ See Perbadanan Geta Felta, 898 F.Supp. at 420 ("... [T]he fiduciary-shield which cloaks corporate agents

finding, as aforementioned, a lack of such jurisdiction over the defendant

² The parties erroneously refer to the "piercing the corporate veil" doctrine which concerns issues of liability, not personal jurisdiction.

³ See, e.g., Lewis v. Fresne, 252 F.3d 352, 359 n.6 (5th Cir. 2001)(citing Darovec Marketing Group, Inc. v. Bio-Genics, Inc., 42 F. Supp.2d 810, 819 (N.D.Ill.1999)).

⁴ See, e.g., Intermed Laboratories, Inc. v. Perbadanan Geta Felta, et al., 898 F. Supp. 417, 420 (citing Stuart v. Spademan, 772 F.2d 1185, 1198 n.12 (5th Cir. 1985)).

⁵ The plaintiffs contend that Memphis Gynecological, a professional corporation, is "not your ordinary corporate animal" and that it should be treated as a partnership for purposes of jurisdiction. This argument is completely without merit as it is not supported by the relevant law.

and officers usually prevents a court from attributing actions made on behalf of the corporation to the agents or officers who performed them").

Accordingly, evidence of Memphis Gynecological's operations in Mississippi cannot establish the defendant's amenability to this court's jurisdiction, and the plaintiffs' requested discovery is not necessary. Therefore, the plaintiffs' motion for relief from this court's order dismissing this cause for lack of personal jurisdiction is **DENIED**.

THIS, the _____ day of March, 2002.

NEAL B. BIGGERS, JR.
SENIOR U.S. DISTRICT JUDGE